



Req. #10944

## ORDINANCE NO. 27500

L.I.D. No. 8642

AN ORDINANCE providing for the construction of permanent pavement and the installation of concrete curbs and gutters, storm drain lines, and storm water catch basins, where needed, on Mullen Street from North 42nd Street to North 43rd Street; North 40th Street from Baltimore Street to Bennett Street, Mason Avenue from North 35th Street to North 36th Street; Cheyenne Street from North 37th Street to North 38th Street, and Fir Street from North 15th Street to North 17th Street; creating Local Improvement District No. 8642; providing for a special fund for the payment of the improvement by special assessment upon the property within the district benefited thereby, for the issuance of warrants, installment notes, bond anticipation notes, or other short-term obligations to pay that part of the cost and expense of the improvement assessed against the property in the district, and for the payment of the remainder of the cost thereof.

WHEREAS all of the preliminary proceedings for the establishment of Local Improvement District ("L.I.D.") No. 8642 have been taken as provided by law, and

WHEREAS the Hearing Examiner of the City, after public hearing duly held, has recommended to the City Council the formation of L.I.D. No. 8642; Now, Therefore,

BE IT ORDAINED BY THE CITY OF TACOMA:

Section 1. That there shall be constructed permanent pavement and the installation of concrete curbs and gutters, storm drain lines, and storm water catch basins, where needed, on Mullen Street from North 42nd Street to North 43rd Street (Segment 1), North 40th Street from Baltimore Street to Bennett Street (Segment 2), Mason Avenue from North 35th Street to North 36th Street (Segment 3), Cheyenne Street from North 37th Street to



1 North 38th Street (Segment 4), and Fir Street from North 15th Street to  
2 North 17th Street (Segment 5), together with all other work necessary to  
3 complete the project in accordance with the maps, plans, and specifications  
4 prepared and now on file in the office of the Director of the Department of  
5 Public Works, which maps, plans, and specifications are hereby adopted.

6 Section 2. That there is hereby created a local improvement district, to  
7 be known as L.I.D. No. 8642, which shall embrace as nearly as practicable all  
8 the property specially benefited by the improvements described above, which  
9 property is described as follows:  
10

11 Platted property:

12 Lots 1 through 14, Blocks 18 and 19, PROSPECT  
13 PARK ADDITION TO TACOMA, W.T. as per the plat  
14 recorded in Volume 2 of Plats at Page 30, records of  
the Pierce County Auditor.

15 Lots 1 through 13, Block 1, LUPTON'S FIRST  
16 ADDITION TO TACOMA, WASH. as per the plat  
17 recorded in Volume 4 of Plats at Page 23, records of  
the Pierce County Auditor.

18 Lots 1 through 13, Block 6, RAVENSWOOD  
19 ADDITION TO TACOMA, W.T. as per the plat  
20 recorded in Volume 3 of Plats at Page 93, records of  
the Pierce County Auditor.

21 Lots 1 through 10, Block 15, HOPE PARK TACOMA,  
22 WASHINGTON, as per the plat recorded in Volume 6  
23 of Plats at Page 98, records of the Pierce County  
Auditor. Together with East half of vacated alley  
abutting said Block 15.

24 The West 14.91 feet of Lot 11, all of Lots 12 through  
25 21, Block 22; the West 15 feet of Lot 11, all of Lots 12  
26 through 21, Block 25, MARCH-MCCANDLESS  
ADDITION TO TACOMA, WASHINGTON, as per the



plat recorded in Volume 8 of Plats at Pages 50-51,  
records of the Pierce County Auditor.

Lots 1 through 18, Blocks 4 and 5, HOPE PARK  
TACOMA, WASHINGTON, as per the plat recorded  
in Volume 6 of Plats at Page 98, records of the Pierce  
County Auditor.

Lots 11 through 20, Block 2, NARROWS BRIDGE  
ADDITION TO TACOMA, WASHINGTON, as per the  
plat recorded in Volume 12 of Plats at Page 41,  
records of the Pierce County Auditor.

Unplatted property:

That portion of the Southwest Quarter of Section 34,  
Township 21, Range 2 East, W.M. described as  
follows: the easterly 165 feet of the Northwest  
Quarter of the Northeast Quarter of the Southwest  
Quarter of Section 34, Township 21, Range 2 East,  
W.M., less street Rights-of-Way.

All lands situate in the City of Tacoma, County of  
Pierce, State of Washington.

Section 3. That the estimated cost and expense of the improvement is  
\$915,000.00; that \$65,000.00 of the cost thereof shall be contributed by the  
Environmental Services Surface Water Utility Fund; that \$636,578.60 of the  
cost thereof shall be contributed by the Public Works Trust Fund; and that the  
balance of \$213,421.40 shall be borne and assessed against the property  
included in the L.I.D.

The assessments levied against the property described above shall  
become due and payable at the option of the property owners in cash, without  
interest, within 30 days after publication of the notice of assessment, or in ten  
equal annual installments with interest on deferred payments at a rate to be



1 hereafter fixed, but in no event greater than .05 percent above the rate of  
2 interest fixed upon sale of bond for the district; and each year one of such  
3 installments, together with interest due thereon and on all installments  
4 thereafter to become due, shall be collected in the manner provided by law.

5 Section 4. That a special fund is hereby created, to be called Local  
6 Improvement Fund, District No. 8642, which shall consist in the aggregate of  
7 the several amounts assessed, levied, and collected upon the several lots and  
8 parcels of land in the local improvement district for the purpose of defraying the  
9 cost and expense of the improvement to be borne by the property within the  
10 district, and into which fund shall be deposited the proceeds of the sale of  
11 warrants, installment notes, bond anticipation notes, or other short-term  
12 obligations drawn against the fund which may be sold by the City. Out of the  
13 fund shall be paid the warrants, installment notes, bond anticipation notes, or  
14 other short-term obligations, interest thereon, and the cost of the improvement  
15 to be borne by the property included in the district.  
16  
17

18 Section 5. The Director of the Department of Public Works is hereby  
19 ordered to call for bids for said improvements, and to proceed and complete the  
20 improvements and to make out and certify to the City Council an assessment  
21 roll, all as provided by law.  
22

23 In case no bid is accepted, the Director of Public Works is hereby  
24 authorized to proceed and complete the improvement by the method of day  
25 labor or force account and by use of materials, supplies, and equipment, as  
26 authorized by the City Charter and ordinances of the City. The Director of



1 Public Works shall keep a separate account of the expenditures as made and  
2 the exact cost of the improvements separately computed. Upon certification by  
3 the Director of Public Works that any sums are due to any person for labor or  
4 materials for the improvements, the proper officers shall issue a warrant  
5 therefor drawn upon the L.I.D. Fund, District No. 8642. The Director of Public  
6 Works shall certify to the City Council the assessment roll on the property as  
7 provided by law.

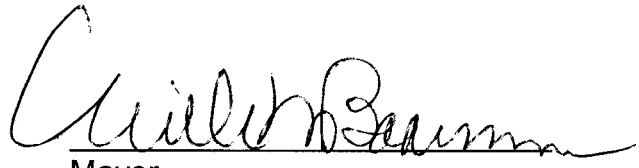
8  
9 Section 6. Under the provisions of the laws of the state of Washington,  
10 amendments thereto, and this ordinance, there shall be issued warrants,  
11 installment notes, bond anticipation notes, or other short-term obligations,  
12 issued pursuant to Ordinance No. 23412, as it may be amended, in payment of  
13 the cost and expense of the district, payable out of the Local Improvement  
14 District Fund. Such warrants, installment notes, bond anticipation notes, or  
15 other short-term obligations shall bear interest from the date of their issuance at  
16 a rate to be hereafter fixed by the Director of the Department of Finance in  
17 accordance with the Ordinance No. 23412, and shall be redeemed from the  
18 Local Improvement District Fund or by other warrants, installment notes, bond  
19 anticipation notes, or other short-term obligations, or from the proceeds of local  
20 improvement bonds hereafter issued.

21  
22 Section 7. Pursuant to the provisions of the laws of the state of  
23 Washington, the City Council hereby directs that the improvements be paid for  
24 by the City in cash and that the warrants, installment notes, bond anticipation  
25 notes, or other short-term obligations authorized to be issued under the  
26




provisions of this ordinance be sold by the proper officers of the City in  
accordance with Ordinance No. 23412, as it may be amended, and that the  
proceeds thereof shall be applied in payment of the cost and expense of the  
improvement.

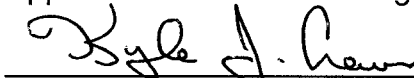
Passed JUN 20 2006

  
Mayor

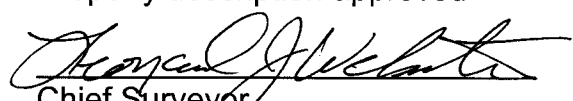
Attest:

  
City Clerk

Approved as to form and legality:

  
Assistant City Attorney

Property description approved

  
Chief Surveyor  
Public Works Department

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City of Tacoma  
Hearing Examiner

May 4, 2006

Aaron Lettiere  
5301 North 40<sup>th</sup> Street  
Tacoma WA 98407

RE: Local Improvement District 8642 Formation (Segment 2)

The Office of the Hearing Examiner on April 26, 2006, received your request seeking reconsideration of the Hearing Examiner's Report to the City Council recommending approval of the formation of L.I.D. 8642 including Segment No. 2.

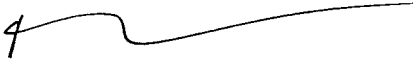
Pursuant to *Tacoma Municipal Code (TMC)* 1.23.140, Motions for Reconsideration must be filed with the Office of the Hearing Examiner no later than 14 calendar days following entry of the Hearing Examiner's recommendation or decision. The Hearing Examiner's Findings, Conclusions, and Recommendation in regard to L.I.D. 8642 were entered on April 11, 2006. Therefore, under the cited City Code provision, Motions for Reconsideration must have been filed in the Office of the Hearing Examiner no later than April 25, 2006. Since your Motion for Reconsideration was not filed with the Office of the Hearing Examiner *i.e.*, received by the Office of the Hearing Examiner, until April 26, 2006, one day following the closure of the period provided by City Code for filing such motions, such motion is not timely.

However, please be advised that the Public Works Department in accordance with the City's standard procedures for Local Improvement Districts, will be providing the Hearing Examiner, prior to consideration by the City Council of formation of L.I.D., the latest percentage of protest as required to be calculated under city and state statutory requirements as, which I understand, excludes those properties whose owners would be receiving L.I.D. assistance. The Hearing Examiner will advise the City Council, at time of their consideration of the matter, of the level of remonstrance to formation of the district or a segment included therein.

**FILE COPY**

May 4, 2006  
Lettiere Letter  
Page 2

By copy of your letter, I am forwarding to the Department of Public Works, L.I.D. Section, the material which you submitted with your request for reconsideration.



RODNEY M. KERSLAKE  
Hearing Examiner

/lal

Cc (with enclosure):

City Clerk

Ralph Rodriguez, Senior L.I.D. Representative, Department of Public Works,  
Construction/L.I.D. Section, City of Tacoma

Jo Alstock, Finance Department, City of Tacoma

Dave Wurzbach, Department of Public Works, L.I.D. Section, City of Tacoma

Carroll L. Bill, 3908 North Baltimore Street, Tacoma WA 98407

Michael Lawson, 3207 37<sup>th</sup> Avenue South, Seattle WA 98144

William T. Combs, 3912 North Baltimore Street, Tacoma WA 98407

Jean McChord, 5322 North 40<sup>th</sup> Street, Tacoma WA 98407

Jim Wise, 5317 North 40<sup>th</sup> Street, Tacoma WA 98407

Brian McKenna, 5313 North 40<sup>th</sup> Street, Tacoma WA 98407

D.J. Ostrander, 5318 North 40<sup>th</sup> Street, Tacoma WA 98407

Mark and Brenda Jones, 3915 North Bennet, Tacoma WA 98407

Michael Bubbs, 5309 North 40<sup>th</sup> Street, Tacoma WA 98407

"I CERTIFY THAT I MAILED A COPY OF THIS DOCUMENT  
TO THE PERSONS AND ADDRESSES LISTED THEREON,  
POSTAGE PREPAID, IN A RECEPTACLE FOR UNITED  
STATES MAIL AT TACOMA, WASHINGTON  
ON May 4, 2006

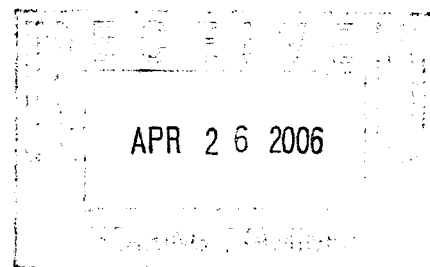
L. Legg

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27500

5301 N. 40th ST  
Tacoma, WA 98407



April 26, 2006

Rodney M. Kerslake, Hearing Examiner  
747 Market Street, Room 720  
Tacoma, WA 98402-3768

Dear Mr. Kerslake:

I am writing in regards to your recent recommendation of LID# 8642 Segment-2. I was recently informed that three property owners had sent in letters of opposition or protest and one of the property owners in favor of the LID was approved for assistance. It is my understanding that if property owners are in favor of said LID and are to receive assistance their vote/assessment must be eliminated from the calculations. The fact that there have been some changes in property owners' wishes, I would like to request that the numbers be recalculated and you would reconsider your recommendation for LID# 8642 Segment-2. I thank you for your time and consideration.

Sincerely,

Aaron M. Lettiere

ORIGINAL

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City of Tacoma  
Hearing Examiner

April 11, 2006

Ralph Rodriguez, Senior L.I.D. Representative  
Department of Public Works  
Construction/L.I.D. Section  
747 Market Street, Room 620  
Tacoma WA 98402  
(Inter-office Delivery)

RE: Local Improvement District 8642 Formation

With regard to the above referred-to matter, enclosed please find a copy of the Hearing Examiner's Findings, Conclusions of Law, and Recommendation as a result of a public hearing held on February 27, 2006.

LOUISA LEGG  
Administrative Legal Secretary

Enclosure with attachments

Cc: City Clerk (Clerk's Jacket)

Jo Alstock, Finance Department, City of Tacoma  
Dave Wurzbach, Department of Public Works, L.I.D. Section, City of Tacoma  
William T. Combs, 3912 North Baltimore Street, Tacoma WA 98407  
Jean McChord, 5322 North 40<sup>th</sup> Street, Tacoma WA 98407  
Aaron and Alyssa Lettiere, 5301 North 40<sup>th</sup> Street, Tacoma WA 98407  
Kimberly Freeman, 3722 North Cheyenne Street, Tacoma WA 98407  
Jeanine and Deryl Mitchell, 3708 North Cheyenne Street, Tacoma WA 98407  
Erin Herbert, 1543 North Fir Street, Tacoma WA 98406  
Richard and Monica Weidman, 1512 North Fir Street, Tacoma WA 98406  
Julie Anderson, 4604 North 38<sup>th</sup> Street, Tacoma WA 98407  
Shaun Darby, 3727 North Cheyenne Street, Tacoma WA 98407  
Jim Wise, 5317 North 40<sup>th</sup> Street, Tacoma WA 98407  
Brian McKenna, 5313 North 40<sup>th</sup> Street, Tacoma WA 98407  
Robert Smith, 4607 North 37<sup>th</sup> Street, Tacoma WA 98407  
Michael Bubb, 5309 North 40<sup>th</sup> Street, Tacoma WA 98407  
D.J. Ostrander, 5318 North 40<sup>th</sup> Street, Tacoma WA 98407  
Mark and Brenda Jones, 3915 North Bennet, Tacoma WA 98407

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STATES MAIL AT TACOMA, WASHINGTON

ON April 11, 2006

## CITY OF TACOMA

## FINDINGS OF FACT, CONCLUSIONS OF LAW, AND RECOMMENDATION

**FINDINGS OF FACT:**

**FINDINGS OF FACT,  
CONCLUSIONS OF LAW,  
AND RECOMMENDATION  
L.I.D. 8642**

ORIGINAL

1           2. Notices of public hearing for Local Improvement District No. 8642 were  
2 published on February 2 and 3, 2006, and notices to affected property owners were mailed to  
3 owners of record on February 3, 2006. Applications for the City's L.I.D. Assistance Program  
4 were included in said mailings. An Affidavit of Publication has been filed with the City  
5 Clerk as well as plans and estimates required by said Resolution.

6           3. Pursuant to applicable laws and the direction of the Tacoma City Council, a public  
7 hearing was held on February 27, 2006, to consider the formation of Local Improvement  
8 District (L.I.D.) No. 8642.

9           4. The report of the Department of Public Works (hereinafter "DPW"), entered into  
10 the record as Exhibit No. 1, indicates that this is a 10-year Assessment Roll; the rate per  
11 Assessable Unit of Frontage (AUF) is \$52.00; the overall estimated project cost is  
12 \$915,000.00; the overall total estimated assessed amount to property owners is \$213,421.40;  
13 the City's overall contribution (L.I.D. Revolving Fund) is \$636,578.60; and the City's  
14 Surface Water Management overall contribution is \$65,000.00. The following is the cost  
15 breakdown by each segment: **Segment 1 (Mullen Street from North 42<sup>nd</sup> Street to North**  
16 **43<sup>rd</sup> Street):** The total assessed to property owners is \$38,477.65, along with the City's  
17 participation (L.I.D. Revolving Fund) of \$121,522.35 and Surface Water Management's  
18 contribution of \$15,000.00, equals an estimated segment cost of \$175,000.00. There is one  
19 owner of property that qualifies for the L.I.D. Assistance Program and that amount is  
20 \$2,599.85. **Segment 2 (North 40<sup>th</sup> Street from Baltimore Street to Bennet Street):** The  
21 total assessed to property owners is \$34,384.10, along with the City's participation (L.I.D.  
22 Revolving Fund) of \$134,615.90 and Surface Water Management's contribution of  
23 \$36,000.00, equals an estimated segment cost of \$205,000.00. **Segment 3 (Mason Avenue**  
24 **from North 35<sup>th</sup> Street To North 36<sup>th</sup> Street):** The total assessed to property owners is  
25

**FINDINGS OF FACT,  
CONCLUSIONS OF LAW,  
AND RECOMMENDATION  
L.I.D. 8642**

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1 \$29,909.75, along with the City's participation (L.I.D. Revolving Fund) of \$98,090.25 and  
2 the Surface Water Management's contribution of \$7,000.00, equals an estimated segment  
3 cost of \$135,000.00. **Segment 4 (Cheyenne Street from North 37<sup>th</sup> Street to North 38<sup>th</sup>**  
4 **Street):** The total assessed to property owners is \$46,797.05, together with the City's  
5 participation (L.I.D. Revolving Fund) of \$183,202.95, equals an estimated segment cost of  
6 \$230,000.00. **Segment 5 (Fir Street from North 15<sup>th</sup> Street to North 17<sup>th</sup> Street):** The  
7 total assessed to property owners is \$63,852.85, along with the City's participation (L.I.D.  
8 Revolving Fund) of \$99,147.15 and the City Surface Water Management's contribution of  
9 \$7,000.00, equals an estimated segment cost of \$170,000.00.

10 5. Testimony presented by Ralph Rodriguez, the Department of Public Works,  
11 L.I.D. Section, establishes the following with regard to all five segments collectively:  
12

- 13 a. The "zone and termini" formula, as set forth at *RCW* 35.44.030 and  
14 .040, was used to determine the preliminary assessments for each  
15 property within the proposed L.I.D.  
16 b. A portion of the City's contribution towards the cost of the  
17 proposed improvements is intended to be funded through a Public  
Works Trust Fund loan.

18 With regard to **Segment 1**, Mr. Rodriguez testified to the following:

- 19 a. The street in this segment currently has a 30-foot wide oil mat  
20 surface with sidewalks on both sides of the right-of-way. Those  
21 sidewalks will not be removed; however, property owners can elect  
22 to have additional work to replace the sidewalk abutting their  
23 property. The costs for the additional work will be borne fully by  
24 the property owner and can be added to their assessment which is  
25 payable over the 10-year Assessment Roll period. The proposed  
street will be 32 feet wide with a structural section underneath it  
consisting of 5" of ballast, 2.5" of crush surfacing top course, and

**FINDINGS OF FACT,  
CONCLUSIONS OF LAW,  
AND RECOMMENDATION  
L.I.D. 8642**

-3-

City of Tacoma  
Office of the Hearing Examiner  
Tacoma Municipal Building  
747 Market Street, Room 720  
Tacoma, WA 98402-3768  
(253)591-5195 FAX (253)591-2003

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1 3" of asphalt along with concrete curb and gutter installation along  
2 both sides.

3 b. The Surface Water Management's contribution of \$15,000.00 will  
4 cover the costs for the extension of catch basins in this block.

5 c. The advisory petition was signed by 61.1 percent of the abutting  
6 property owners. The remonstrance stands at zero percent. One  
7 owner of property has applied and been approved for the L.I.D.  
8 Assistance Program. The assessment amount for said property  
9 owner is \$2,599.85.

10 With regard to **Segment 2**, Mr. Rodriguez testified to the following:

11 a. This segment currently has a 26-foot wide oil mat surface.  
12 Surrounding blocks to the immediate west and east of this  
13 proposed L.I.D. have existing curb and gutters which will be  
14 extended into this segment.

15 b. The Department of Public Works, L.I.D. Section has received  
16 phone calls pertaining to both support and protest of the proposed  
17 improvements. The City's Department of Public Works,  
18 Environmental Service, Wastewater Management, also made  
19 contact with regard to a large tree located in this segment whose  
20 roots are interfering with the City's sanitary sewer system. The  
21 tree is currently in the path of proposed sidewalk improvements  
22 and would be removed at the time of construction without  
23 additional costs to abutting property owners. Furthermore, the  
24 City's sanitary sewer main will be replaced and laterals will be  
25 extended closely to each abutting property line and the City's  
Wastewater Management will bear the entire cost of that work.

c. The advisory petitioner was signed by 51 percent and the  
remonstrance at the time of hearing is 59.07 percent<sup>1</sup>. Each  
signature on the petition of protest has been verified as valid by the  
Department of Public Works, L.I.D. Section. One owner of  
property has applied and been approved for the L.I.D. Assistance  
Program. The assessment amount for said property owner is  
\$2,936.10.

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<sup>1</sup> Post-hearing filings changed the remonstrance amount. See Finding 7.

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**FINDINGS OF FACT,  
CONCLUSIONS OF LAW,  
AND RECOMMENDATION  
L.I.D. 8642**

1 With regard to **Segment 3**, Mr. Rodriguez testified to the following:

- 2 a. This segment currently consists of a 30-foot wide oil mat surface  
3 and sidewalks. Said sidewalks will not be removed; however,  
4 property owners can elect to have additional work to replace the  
5 sidewalk abutting their property. The costs for the additional work  
6 will be borne fully by the property owner and can be added to their  
7 assessment which is payable over the 10 year Assessment Roll  
8 period. The flat topography of the street will be reconstructed to  
9 allow surface water flow towards the intersections. The proposed  
10 street will be 32 feet wide with a structural section underneath it  
11 consisting of 5" of ballast, 2.5" of crush surfacing top course, and  
12 3" of asphalt.
- 13 b. The advisory petition was signed by 52.36 percent of the abutting  
14 property owners within the proposed L.I.D. boundaries. There is  
15 zero percent remonstrance. No applications for the L.I.D.  
16 Assistance Program have been received by the Department of  
17 Public Works, L.I.D. Section.
- 18 c. The Surface Water Management's contribution of \$7,000.00 will  
19 cover the costs of two catch basins.

20 With regard to **Segment 4**, Mr. Rodriguez testified to the following:

- 21 a. The street in this segment has an oil mat surface and is 30 feet in  
22 width. The existing sidewalk will remain; however, property  
23 owners can elect to have additional sidewalk replacement work.  
24 The cost of said work will be added to their assessments which will  
25 be paid over the 10-year Assessment Roll period. The proposed  
street improvement will have an underground structure consisting  
of 5" of ballast, 2.5" of crush surfacing top course, and 3" of  
asphalt.
- b. The advisory petition was signed by 54.1 percent of the abutting  
property owners within the proposed L.I.D. boundaries. There is  
zero percent remonstrance. The Department of Public Works  
received no applications for the L.I.D. Assistance Program from  
owners of property within this segment.

**FINDINGS OF FACT,  
CONCLUSIONS OF LAW,  
AND RECOMMENDATION  
L.I.D. 8642**

1 c. The Surface Water Management's contribution of \$7,000.00 will  
2 pay for catch basins within the proposed L.I.D.

3 d. The Department of Public Works, L.I.D. Section received three  
4 phone call inquiries. The first phone call inquiry was with regard  
5 to the method and rate the L.I.D. Section uses to calculate each  
6 assessment; the second was with regard to paving width concerns;  
7 and the third was from a protesting owner property (*see* attached  
8 Exhibit 4) asking to add to this L.I.D., the replacement of a  
9 hazardous sidewalk abutting his property. Mr. Rodriguez  
10 explained that said hazardous sidewalk can be replaced but the  
11 property owner would bear the full cost of its replacement. The  
12 sidewalk replacement cost would be added to the owner's  
13 assessment and could be paid over the 10-year Assessment Roll  
14 period. In addition to the previous phoned call inquiries, an e-mail  
15 was received from a protesting owner property (*see* attached  
16 Exhibit 3) requesting an L.I.D. packet for improvements on North  
17 37<sup>th</sup> between Verde and Cheyenne.

18 e. The advisory petition was signed by 51.66 percent of the abutting  
19 property owners. The remonstrance amount stands at 5 percent.

20 With regard to **Segment 5**, Mr. Rodriguez testified to the following:

21 a. The street in this segment currently has an oil mat surface with no  
22 existing sidewalks. Additionally, landscaping from a number of  
23 private properties abuts the street and would be removed at time of  
24 grading of the sidewalk area. At this time, is uncertain the extent  
25 of landscape removal but that determination will be made after a  
forthcoming survey is completed.

b. An owner of property has contacted the Department of Public  
Works, L.I.D. Section, requesting a petition for a separate  
underground wiring L.I.D. which may be done in conjunction with  
this proposed L.I.D.

c. The advisory petition was signed by 57.5 percent of the abutting  
property owners. The remonstrance stands at zero percent.

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**FINDINGS OF FACT,  
CONCLUSIONS OF LAW,  
AND RECOMMENDATION  
L.I.D. 8642**



1 d. Three property owners within this segment contacted the  
2 Department of Public Works, L.I.D. Section with general inquiries  
3 with regard to Local Improvement Districts.

4 6. Four owners of property within Segments 2, 4 and 5 appeared and testified at  
5 hearing in support of formation of the proposed L.I.D. Also appearing and testifying were  
6 two other owners of property within Segment 2. One owner of property had previously  
7 signed a petition of protest (*see* attached Exhibit 5) and asked for and received an official  
8 protest form to collect additional signatures of protest. Another owner of property disputed  
9 the amount of remonstrance for Segment 2 reported by Mr. Rodriguez at hearing. Two  
10 additional owners of property within Segment 5 appeared and testified at hearing. The first  
11 owner made inquiries regarding the L.I.D. Section's method of calculating each assessment  
12 and L.I.D. construction questions. The second owner made inquiry with regard to future  
13 underground wiring improvements within this segment.  
14

15 7. Post-hearing, the Office of the Hearing Examiner received two letters of support  
16 with regard to Segment 2. *See* attached Exhibits 7 and 8. As a result of those filings, the  
17 City's Department of Public Works, L.I.D. Section, through its April 1, 2006 electronic  
18 communication, notes that the level of remonstrance dropped from 59.07 percent to 41.99  
19 percent. *See* attached Exhibit 9.  
20

21 8. Properties that would be specially benefited by the proposed improvements have  
22 been included within the boundaries of the proposed Local Improvement District.  
23  
24  
25

**FINDINGS OF FACT,  
CONCLUSIONS OF LAW,  
AND RECOMMENDATION  
L.I.D. 8642**

-7-

City of Tacoma  
Office of the Hearing Examiner  
Tacoma Municipal Building  
747 Market Street, Room 720  
Tacoma, WA 98402-3768  
(253)591-5195 FAX (253)591-2003

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1           9. The verbatim transcript in the referred-to matter is in the custody of the  
2 Examiner's Office, the official file is in the custody of the City Clerk, and both are available  
3 for review by the Council and any party in interest.  
4

5           10. Any Conclusion of Law hereinafter stated which may be deemed to be a Finding  
6 of Fact herein is hereby adopted as such.

7           From these Findings of Fact come the following:  
8

9                               **CONCLUSIONS OF LAW:**

10           1. The Hearing has jurisdiction in the matter. *TMC 1.23.050.A.2.*

11           2. The Department of Public Works has complied with all applicable laws with  
12 respect to the formation of Local Improvement District No. 8642.

13           3. The purposes of the initial hearing in regard to formation of Local Improvement  
14 Districts are to determine if the formation of the district should proceed and if the limits of  
15 the district are proper. *Chandler v. City of Puyallup*, 70 Wash. 632, 633 (1912).

16           Accordingly, the only issues properly presented during the formation stage of the L.I.D.  
17 process are:

18                           (a) The jurisdiction or authority of the city to proceed with creating  
19 the district.

20                           (b) The proper boundaries of the district.

21           *Underground Equality v. Seattle*, 6 Wn. App. 338, 342, 492 P.2d 1071 (1972)  
22

23           Issues relative to the amount of special benefit resulting from the improvements  
24 proposed must await the hearing in regard to the final assessments. *Underground Equality*  
25 at 342.

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1           4. There has been no dispute presented in this proceeding relative to the City of  
2 Tacoma's (City) authority to create the subject L.I.D..<sup>2</sup> The City's authority to create an  
3 L.I.D. initiated by resolution of the local legislative body, as is the case here, is statutorily  
4 limited only by the following provision:  
5

6           **35.43.180 Restraint by protest.** The jurisdiction of the  
7 legislative authority of a city or town to proceed with any local  
8 improvement initiated by resolution shall be divested by a protest filed  
9 with the city or town council within thirty days from the date of passage of  
10 the ordinance ordering the improvement, signed by the owners of the  
11 property within the proposed local improvement district or utility local  
12 improvement district subject to sixty percent or more of the total cost of  
13 the improvement including federally-owned or other non-assessable  
14 property as shown and determined by the preliminary estimates and  
15 assessment roll of the proposed improvement district or, if all or part of  
16 the local improvement district or utility local improvement district lies  
17 outside of the city or town, such jurisdiction shall be divested by a protest  
18 filed in the same manner and signed by the owners of property which is  
19 within the proposed local improvement district or utility local  
20 improvement district but outside the boundaries of the city or town, and  
21 which is subject to sixty percent or more of that part of the total cost of the  
22 improvement allocable to property within the proposed local improvement  
23 district or utility local improvement district but outside the boundaries of  
24 the city or town, including federally-owned or other non-assessable  
25 property: . . . (Emphasis supplied.)

RCW 35.43.180.

<sup>2</sup>RCW 35.43.040 provides, in pertinent part, that:

"...Whenever the public interest or convenience may require, the legislative authority of any city or town may order the whole or any part of any local improvement including but not restricted to those, or any combination thereof, listed below to be constructed, reconstructed, repaired, or renewed and landscaping including but not restricted to the planting, setting out, cultivating, maintaining and renewing of shade or ornamental trees and shrubbery thereon; may order any and all work to be done necessary for completion thereof; and may levy and collect special assessments on property specially benefited thereby to pay the whole or any part of the expense thereof, viz:

(1) Alley, avenues, boulevards, lanes, park drives, parkways, parking facilities, public places, public squares, public streets, their grading, regarding, planking, re-planking, paving . . . " (Emphasis supplied.)

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5. The Council, however, has further limited its authority to proceed with the formation of an L.I.D. through the adoption of a formal policy of not generally forming such districts if the protest to formation is 50 percent or greater.<sup>3</sup>

6. Since the remonstrance for each segment is below 50 percent, the City clearly has the authority by statute and its own adopted L.I.D. policy to proceed with the formation of L.I.D. 8641.

7. Properties within proposed L.I.D. 8642 would be specially benefited by the proposed improvements and the boundaries proposed for the L.I.D. are proper.

8. Any Finding of Fact hereinbefore stated which may be deemed to be a Conclusion of Law herein is hereby adopted as such.

From these Conclusions of Law is entered this:

**RECOMMENDATION:**

Based on applicable Tacoma City Council policies with respect to formation of local improvement districts, the Hearing Examiner recommends the formation of Local Improvement District No. 8642.

**DATED** this 11<sup>th</sup> day of April, 2006.

  
**RODNEY M. KERSLAKE, Hearing Examiner**

<sup>3</sup> Resolution 32989, adopted April 25, 1995 provides in pertinent part as follows:

“2. In proposed L.I.D.’s in which the number of assisted property owners constitutes less than twenty-five percent (25%) of the total number of property owners, the proposed L.I.D. shall not be formed if the City has received written protest signed by the owners of the property within the proposed L.I.D. subject to more than fifty percent (50%) of the total cost of the improvement.”

**FINDINGS OF FACT,  
CONCLUSIONS OF LAW,  
AND RECOMMENDATION**  
**L.I.D. 8642**

ORIGINAL

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## NOTICE

### **RECONSIDERATION/APPEAL OF EXAMINER'S RECOMMENDATION**

#### **RECONSIDERATION:**

Any aggrieved person or entity having standing under the ordinance governing the matter, or as otherwise provided by law, may file a motion with the office of the Hearing Examiner requesting reconsideration of a decision/recommendation entered by the Examiner. A motion for reconsideration must be in writing and must set forth the alleged errors of procedure, fact, or law and must be filed in the Office of the Hearing Examiner within 14 calendar days of the issuance of the Examiner's decision/recommendation, not counting the day of issuance of the decision/recommendation. If the last day for filing the motion for reconsideration falls on a weekend day or a holiday the last day for filing shall be the next working day. The requirements set forth herein regarding the time limits for filing of motions for reconsideration and contents of such motions are jurisdictional. Accordingly, motions for reconsideration that are not timely filed with the Office of the Hearing Examiner or do not set forth the alleged errors shall be dismissed by the Examiner. It shall be within the sole discretion of the Examiner to determine whether an opportunity shall be given to other parties for response to a motion for reconsideration. The Examiner, after a review of the matter, shall take such further action as he/she deems appropriate, which may include the issuance of a revised decision/recommendation. (*Tacoma Municipal Code 1.23.140*)

#### **APPEALS TO CITY COUNCIL OF EXAMINER'S RECOMMENDATION:**

Within 14 days of the issuance of the Hearing Examiner's final recommendation, any aggrieved person or entity having standing under the ordinance governing such application and feeling that the recommendation of the Examiner is based on errors of procedure, fact or law shall have the right to appeal the recommendation of the Examiner by filing written notice of appeal with the City Clerk, stating the reasons the Examiner's recommendation was in error.

**Appeals shall be reviewed and acted upon by the City Council in accordance with TMC 1.70.**

#### **GENERAL PROCEDURES FOR APPEAL:**

The Official Code of the City of Tacoma contains certain procedures for appeal, and while not listing all of these procedures here, you should be aware of the following items which are essential to your appeal. Any answers to questions on the proper procedure for appeal may be found in the City Code sections heretofore cited:

1. The written request for review shall also state where the Examiner's findings or conclusions were in error.
2. Any person who desires a copy of the electronic recording must pay the cost of reproducing the tapes. If a person desires a written transcript, he or she shall arrange for transcription and pay the cost thereof.

Notice - No Fee (7/11/00)

**REPORT TO THE HEARINGS EXAMINER  
FOR L.I.D. HEARING FEBRUARY 27, 2006- 5:00 P.M.**

**L.I.D. NO. 8642** Construction of asphalt concrete alley pavement, with storm drainage, on:

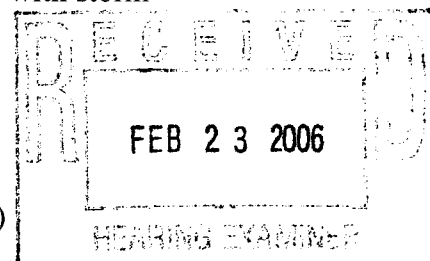
Mullen Street from North 42<sup>nd</sup> Street to North 43<sup>rd</sup> Street (Segment 1)

North 40<sup>th</sup> Street from Baltimore Street to Bennet Street (Segment 2)

Mason Avenue from North 35<sup>th</sup> Street to North 36<sup>th</sup> Street (Segment 3)

Cheyenne Street from North 37<sup>th</sup> Street to North 38<sup>th</sup> Street (Segment 4)

Fir Street from North 15<sup>th</sup> Street to North 17<sup>th</sup> Street (Segment 5)



**Notices:** Resolution No. 36767 setting the hearing date was published February 2nd and 3rd, 2006.

Notice of Public Hearing letters were mailed to owner of record on February 3rd, 2006.

**Status:** Being considered for creation as the result of a petition.

<b>Background:</b>	Estimated project cost:	\$915,000.00
	Rate per AUF:	\$52.00
	Total Est. Assessed to Property Owner:	\$213,421.40
	Surface Water Management	\$65,000.00
	City Participation	\$636,578.60

To our knowledge the proceedings are all proper and in conformance with L.I.D. statutes.

Protest: 2.5% (Segment 4)

This is a 10-year Assessment Roll.

**Recommendation:** Considering the amount of protest, we recommend the L.I.D. be created.

File: lid8642

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EXH. 1

## **COST BREAKDOWN BY SEGMENT**

### **Segment 1 - Mullen Street from North 42<sup>nd</sup> Street to North 43<sup>rd</sup> Street (Segment 1)**

Total Assessed to Property Owners	\$38,477.65
Surface Water Management	\$15,000.00
City Participation	<u>\$121,522.35</u>
<b>Estimated Segment Cost</b>	<b>\$175,000.00</b>
LID Assistance (1)	\$ 2,599.85

### **Segment 2 - North 40<sup>th</sup> Street from Baltimore Street to Bennet Street (Segment 2)**

Total Assessed to Property Owners	\$ 34,384.10
Surface Water Management	\$ 36,000.00
City Participation	<u>\$134,615.90</u>
<b>Estimated Segment Cost</b>	<b>\$205,000.00</b>

### **Segment 3 - Mason Avenue from North 35<sup>th</sup> Street to North 36<sup>th</sup> Street (Segment 3)**

Total Assessed to Property Owners	\$29,909.75
Surface Water Management	\$ 7,000.00
City Participation	<u>\$98,090.25</u>
<b>Estimated Segment Cost</b>	<b>\$135,000.00</b>

### **Segment 4 - Cheyenne Street from North 37<sup>th</sup> Street to North 38<sup>th</sup> Street (Segment 4)**

Total Assessed to Property Owners	\$ 46,797.05
City Participation	<u>\$183,202.95</u>
<b>Estimated Segment Cost</b>	<b>\$230,000.00</b>
Protest (Smith)	2.5%

### **Segment 5 - Fir Street from North 15<sup>th</sup> Street to North 17<sup>th</sup> Street (Segment 5)**

Total Assessed to Property Owners	\$63,852.85
Surface Water Management	\$ 7,000.00
City Participation	<u>\$99,147.15</u>
<b>Estimated Segment Cost</b>	<b>\$170,000.00</b>



# REQUEST FOR ORDINANCE OR RESOLUTION

RECEIVED

Request #:	10944
Ordinance #:	27500
Resolution #:	

2006 MAY 30 AM 8:51

1. DATE: MAY 26, 2006

CITY CLERK'S OFFICE

2. REQUESTING DEPARTMENT/DIVISION/PROGRAM Hearing Examiner	3. CONTACT OFFICE (for questions): Louisa Legg	PHONE/EXTENSION 5195
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4. PREPARATION OF AN ORDINANCE IS REQUESTED FOR THE CITY COUNCIL MEETING OF TUESDAY, JUNE 13, 2006.

5. SUMMARY TITLE/RECOMMENDATION: (A concise sentence, as it will appear on the Council agenda.)

**L.I.D. 8642** - Provide construction of asphalt concrete street pavement, with storm drainage, on: Mullen Street from North 42<sup>nd</sup> Street to North 43<sup>rd</sup> Street (Segment 1), North 40<sup>th</sup> Street from Baltimore Street to Bennett Street (Segment 2), Mason Avenue from North 35<sup>th</sup> Street to North 36<sup>th</sup> Street (Segment 3), Cheyenne Street from North 37<sup>th</sup> Street to North 38<sup>th</sup> Street (Segment 4), and Fir Street from North 15<sup>th</sup> Street to North 17<sup>th</sup> Street (Segment 5).

**LOCATION:** Mullen Street from North 42<sup>nd</sup> Street to North 43<sup>rd</sup> Street (Segment 1), North 40<sup>th</sup> Street from Baltimore Street to Bennett Street (Segment 2), Mason Avenue from North 35<sup>th</sup> Street to North 36<sup>th</sup> Street (Segment 3), Cheyenne Street from North 37<sup>th</sup> Street to North 38<sup>th</sup> Street (Segment 4), and Fir Street from North 15<sup>th</sup> Street to North 17<sup>th</sup> Street (Segment 5).

6. BACKGROUND INFORMATION/GENERAL DISCUSSION: (Why is this request necessary? Are there legal requirements? What are the viable alternatives? Who has been involved in the process?)

7. FINANCIAL IMPACT:

- A. ☐ NO
- B. ☒ YES OVER \$100,000, Fiscal Note Attached
- C. ☐ YES, UNDER \$100,000, Provide funding source information below

**FUNDING SOURCE:** (Enter amount of funding from each source)

Fund Number & Name:	State \$	City \$	Other \$	Total Amount
1060 - Arterial Street Fund		1060 - \$636,578.60	Property Assessments - \$213,421.40	\$915,000.00
4301 - Surface Water Management		4301 - \$65,000.00		

If an expenditure, is it budgeted? ☐ Yes ☐ No Where? Cost Center: 661300  
529700  
Acct #: 4368110  
6398570  
6311245

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## REQUEST FOR ORDINANCE OR RESOLUTION

Request #:	10944
Ordinance #:	27500
Resolution #:	

8. LIST ALL MATERIAL AVAILABLE AS BACKUP INFORMATION FOR THE REQUEST AND INDICATE WHERE FILED:

Source Documents/Backup Material	Location of Document
▪ Hearing Examiner letter dated May 4, 2006 re: Request for Reconsideration	▪ Attached
▪ Letter from Aaron M. Lettiere dated April 26, 2006 requesting reconsideration	▪ Attached
▪ Hearing Examiner Report and Recommendation	▪ Attached
▪ Department (DPW/L.I.D. Section) Preliminary Report	▪ Attached

9. ATTORNEY CONTACT: (Enter name of attorney with whom you've been working.)

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10. Department Director/Utility Division Approval	OMBA/Finance Director Approval	City Manager/Director Utilities Approval

Ordinance No. 27500

First Reading of Ordinance: \_\_\_\_\_

Final Reading of Ordinance: JUN 20 2006

Passed: JUN 20 2006

Roll Call Vote:

MEMBERS	AYES	NAYS	ABSTAIN	ABSENT
Ms. Anderson	/			
Mr. Evans	/			
Mr. Fey	/			
Ms. Ladenburg	/			
Mr. Lonergan	/			
Mr. Manthou	/			
Mr. Stenger	/			
Mr. Talbert	/			
Mayor Baarsma	/			

MEMBERS	AYES	NAYS	ABSTAIN	ABSENT
Ms. Anderson				
Mr. Evans				
Mr. Fey				
Ms. Ladenburg				
Mr. Lonergan				
Mr. Manthou				
Mr. Stenger				
Mr. Talbert				
Mayor Baarsma				